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August 25, 2020

VIA CM/ECF

The Honorable Leonard P. Stark
Chief U.S. District Judge, District of Delaware
J. Caleb Boggs Federal Building
844 N. King Street
Unit 26, Room 6124
Wilmington, DE 19801-3555

Re: Xcoal Energy & Resources v. Bluestone Energy Sales Corporation et al., Case No. 18-819-LPS

Dear Chief Judge Stark:

The Court is now familiar with the issues that arose earlier this morning with regard to this litigation. Without rehashing those facts, defense counsel recently received an anonymous and unauthenticated letter (the “Letter”) which made wide-ranging allegations. Defendants provided the Letter to Plaintiff’s counsel.

After discussion with the parties, the Court permitted an adjournment of the proceedings to 9:00 am tomorrow to permit the parties to confer regarding the Letter. Counsel have now conferred. After careful thought and consideration, the Defendants feel compelled to request a short adjournment. Under this proposal, each side would be permitted to take limited discovery and arrangements would be made to preserve forensic evidence relating to the Letter. The scope of discovery and forensic preservation details are still being discussed by the parties and Defendants request five (5) days to submit a joint discovery plan. If the parties are unable to reach an agreement on the scope of discovery, each would submit a proposal to the Court for consideration and ruling.

If the Court approves a discovery plan, the Defendants request 45 days to conduct discovery pursuant to the approved plan. This would include, but not be limited to, the issuance of subpoenas, the taking of depositions, and written discovery requests. Defendants believe good cause exists to grant such a request. *See Outsource Servs. Mgmt., LLC v. Lake Austin Props. I, Ltd.*, 2011 U.S. Dist. LEXIS 160772, *9 (M.D. Fla. June 22, 2011).¹

¹ Additional citations and authorities are available upon request.

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With great reluctance, the Plaintiff joins in the Defendants' request, which request raises ethical issues of counsel with respect to non-party witnesses that will require additional time to address.

The parties appreciate the Court's consideration.

Respectfully,

/s/ John A. Sensing

John A. Sensing (DE Bar No. 5232)

cc: Richard A. Getty, Esq.
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